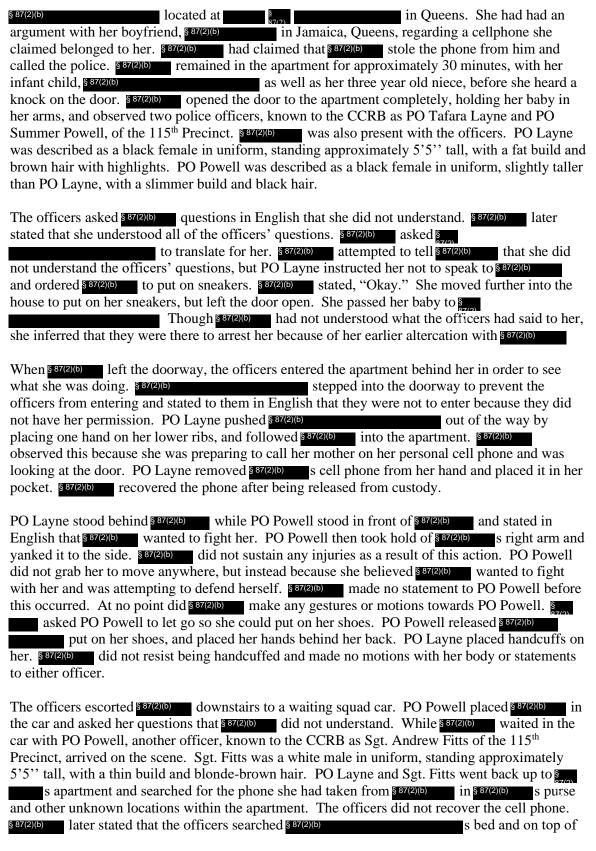
CCRB INVESTIGATIVE RECOMMENDATION

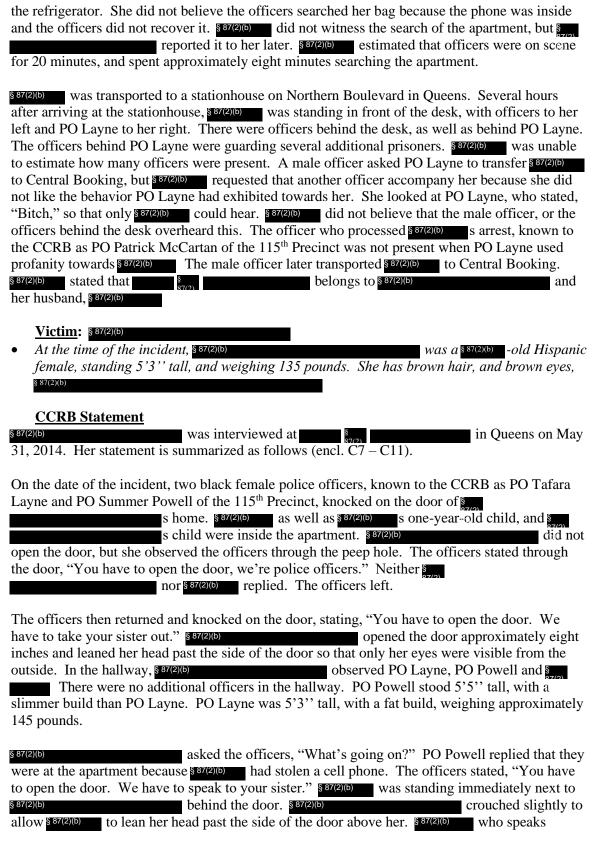
Investigator:		Team:	CCRB Case #:	☐ Force	Discourt.	U.S.
Andrew Guinan	-	Геат # 4	201301963	✓ Abuse	O.L.	☐ Injury
Incident Date(s)]	Location of Incident:		Precinct:	18 Mo. SOL	EO SOL
Wednesday, 03/27/2013 5:25 PM	\$	87(2)(b)	115th	115	9/27/2014	9/27/2014
J .		Precinct stationhouse				
Date/Time CV Reported		CV Reported At:	How CV Reported:	Date/Tim	ne Received at CCI	RB
Thu, 03/28/2013 1:08 PM	(CCRB	Phone	Thu, 03/2	28/2013 1:08 PM	
Complainant/Victim	Type	Home Addre	ess			
Witness(es)		Home Addre	ess			
Subject Officer(s)	Shield	TaxID	Command			
1. POF Tafara Layne	25167	935961	115 PCT			
2. POF Summer Powell	24092	941111	115 PCT			
3. SGT Andrew Fitts	00977	938484	115 PCT			
Witness Officer(s)	Shield No	Tax No	Cmd Name			
1. POM Patrick Mccartan	18373	950854	115 PCT			
Officer(s)	Allegation	1		Inv	vestigator Recon	nmendation
A.POF Summer Powell	Abuse: PC	Summer Powell ente		2)(b)		
		in Queer				
B.POF Tafara Layne	Abuse: PC	Tafara Layne entered in Queens.	d and searched § 87(2)(b)			
C.SGT Andrew Fitts	Abuse: Sgt. Andrew Fitts entered and searched \$87(2)(b)					
		in Queens.				
D.POF Tafara Layne	Abuse: \$\frac{\\$ 87}{\} Tafara Lay	(2)(b) yne searched the prope	in Quee erty of § ^{87(2)(b)}	ens, PO		
E.POF Tafara Layne		sy: At the 115th Precinke discourteously to		Tafara		

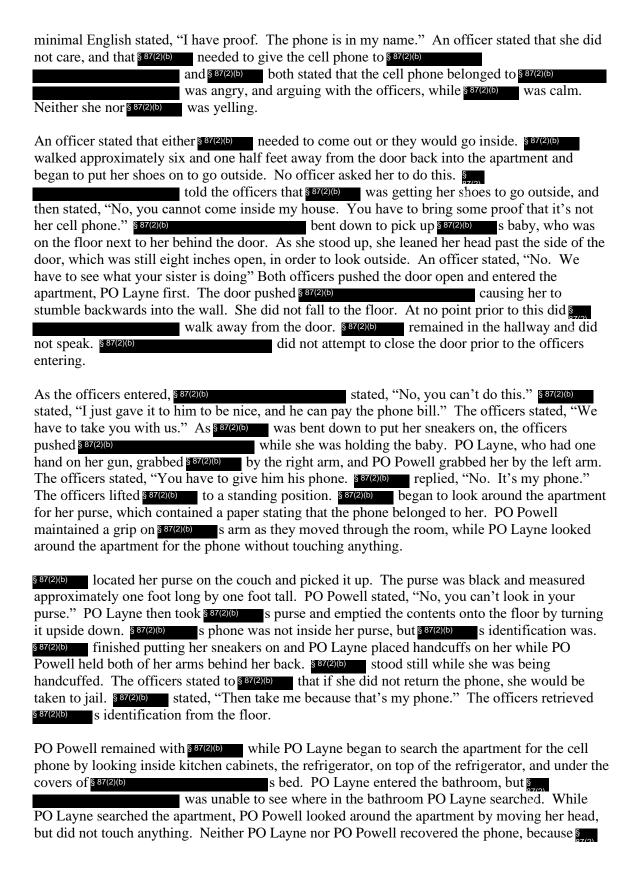
Case Summary

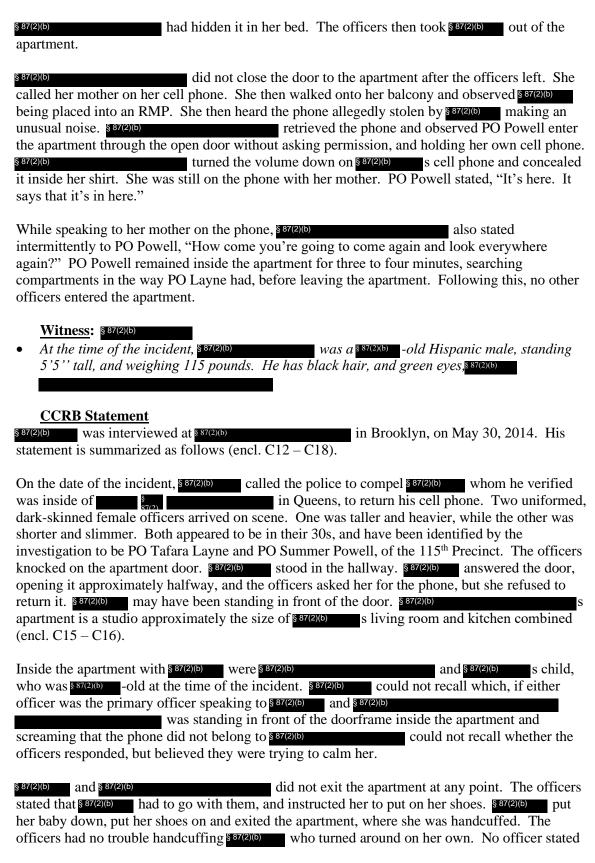
\$ 87(2)(b) s husband, and \$ 87(2)(b) s brother-				
in-law, filed this complaint by phone with the CCRB on March 28, 2013. On March 27, 2013 at approximately 5:25 p.m., PO Tafara Layne and PO Summer Powell responded to a report of				
stolen property at the residence of \$87(2)(b) located at located at				
in Queens. S87(2)(b) was not present at the time of the incident. The following allegations resulted from S87(2)(b) and S87(2)(b) and S87(2)(b) and S87(2)(b) and S87(2)(b) are sent at the time of the incident. The				
officers:				
Allegation A) Abuse of Authority: PO Summer Powell entered and searched				
in Queens. Allegation B) Abuse of Authority: PO Tafara Layne entered and searched				
in Queens.				
§ 87(2)(g)				
Allegation C) Abuse of Authority: Sgt. Andrew Fitts entered and searched in Queens.				
Allegation D) Abuse of Authority: Inside in Queens, PO				
Tafara Layne searched the property of \$87(2)(b)				
\$ 01/21(U), \$ 01/21(E)				
Allegation E) Discourtesy: At the 115 th Precinct stationhouse, PO Tafara Layne spoke				
discourteously to § 87(2)(b)				
§ 87(2)(b), § 87(2)(g)				
This case was deemed ineligible for mediation as a result of \$87(2)(b) s arrest. All communication with \$87(2)(b) was conducted in Spanish.				
Results of Investigation				
<u>Civilian Statements</u>				
Victim: § 87(2)(b)				
• At the time of the incident, §87(2)(b) was an §87(2)(b) -old Hispanic female, standing				
5'3'' tall, and weighing 130 pounds. She has black hair and brown eyes, \$87(2)(b)				
CCRB Statement was interviewed at the CCRB (encl. C4 – C6) on June 25, 2013. She provided a brief				
phone statement (encl. C3) on April 16, 2013, as well as a follow-up statement on June 4, 2014				
(encl. C6a). Her statements are consistent, with exceptions noted below.				
On the day of the incident, \$87(2)(b) returned to the apartment of her sister, \$87(2)(b)				
Page 2				

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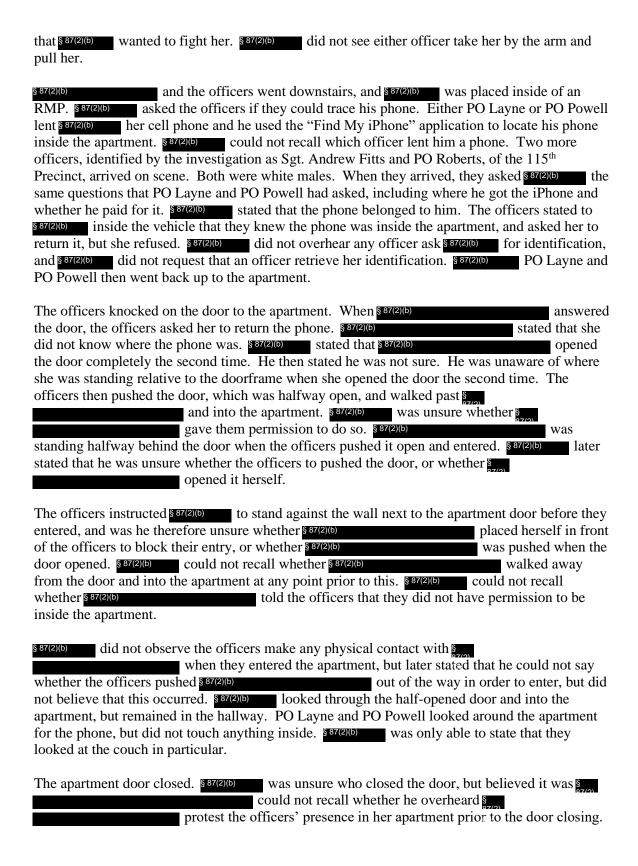








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Downstairs, \$87(2)(b) entered Sgt. Fitts and PO Robert's RMP, while PO Layne and PO Powell transported \$87(2)(b) At that time, he observed either PO Layne or PO Powell holding so identification. He could not recall how the officer obtained the identification. \$87(2)(b) remained in the stationhouse for approximately 30 minutes. He did not see \$97(2)(b) apart from watching her fingerprints taken. He did not hear any conversation between \$97(2)(b) and either PO Layne or PO Powell. \$97(2)(b) never heard an officer request that PO Layne or PO Powell transport \$97(2)(b) to Central Booking. He did not hear either PO Layne or PO Powell refer to as a bitch.						
selling the phone. The officers, however, told § 87(2)(b) that he would get it back.						
NYPD Statements:						
 Subject Officer: PO TAFARA LAYNE At the time of the incident, PO Tafara Layne was a \$87(2)(b) 						
• On the date of the incident, PO Layne was assigned to the 115 th Precinct sector HI, with her partner, PO Powell. She was dressed in uniform, and assigned to marked RMP number 3822. She worked from 3:00 p.m. until 11:35 p.m. Since the date of the incident, PO Payne has been transferred to the 110 th Precinct detective squad.						
Memo Book PO Layne's memo book (encl. D6 –D7) contained the following entries regarding this incident: At 5:15 p.m., PO Layne received an assignment of a family dispute, at (a) (a) (a) (b) (b) (c) (c) (c) (c) (c) (c) (c) (c) (c) (c						
<u>CCRB Statement</u> PO Layne was interviewed at the CCRB (encl. D8 – D10) on September 20, 2013. Her statement is summarized as follows.						
On the day of the incident, PO Layne and PO Powell responded to a call of a family dispute and met the complainant, \$\frac{87(2)(b)}{27(2)}\$ outside of a bodega, located at in Queens. stated that he and his girlfriend, \$\frac{87(2)(b)}{2}\$ had had a fight the previous night, and that she had taken his iPhone. PO Layne asked where the \$\frac{87(2)(b)}{2}\$ lived and \$\frac{87(2)(b)}{2}\$ pointed to stated that he knew which apartment \$\frac{87(2)(b)}{2}\$ lived in, and that \$\frac{87(2)(b)}{2}\$ was at home.						
The officers went to the apartment and knocked on the door. \$87(2)(b) accompanied them to identify \$87(2)(b) and indicate which apartment was hers. \$87(2)(b) and \$37(2)(b) and \$37(2)(b						

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doesn't take care of his kids. If he doesn't pay for his kids, he doesn't get the phone." PO Layne stated, "That's really not the issue, you need to give him the phone." She issued no further explicit directives to § 87(2)(b) replied, "I'm not giving him anything." PO Layne stated, "Okay." PO Layne had no trouble communicating with \$87(2)(6) in English, and each of them understood the other. tried to offer information multiple times. PO Layne stated to her, "Mind your business, this has nothing to do with you," but had no further conversation with her. closed the door to the apartment and §87(2)(b) and the officers went back downstairs. The entire initial conversation with \$87(2)(b) occurred with all parties standing in the hallway, and lasted three to four minutes. PO Layne requested that a sergeant respond to the location. Either PO Layne or PO Powell used the "Find My iPhone" application, and determined that \$87(2)(b) s phone was inside \$87(2)(b) building. Sgt. Fitts, the patrol sergeant, arrived, and PO Layne informed him of the situation. PO Layne, PO Powell and Sgt. Fitts then proceeded up the stairs again and knocked on the door. remained outside with Sgt. Fitts's driver, identified as PO Ray Roberts, of the 115th Precinct. Either § 87(2)(b) or § 87(2)(b) answered the door. The officers stated to \$87(2)(b) who was at the door, that they knew the phone was inside the apartment and if she did not return it she would, "get locked up." The door was approximately three quarters of the way opened, and the female who had answered it was standing adjacent to the edge of the door. PO Layne had a clear line of sight into the apartment, which consisted of one, small room. All three officers then walked into the apartment. At the time the officers entered the apartment, was standing in the middle of the room. She made a phone call and placed her phone inside of a purse sitting on the bed in the room. This was not the same phone taken from and § 87(2)(b) did not appear to respond in any particular way to the officers entering the apartment. §87(2)(b) at no point used her body to obstruct the officers from entering the apartment, and they had no physical contact with her. PO Layne had no conversation with § 87(2)(b) and she was unaware of whether or not PO Powell did. §87(2)(b) stated, "Why are you here? I'm not giving him the phone. He doesn't take care of his kids. I don't care." PO Layne replied, "You don't care? Okay, cool, put your hands behind your back, you're going to jail." This conversation lasted between one and two minutes. did not resist her hands being placed behind her back. She was then handcuffed. PO Layne asked \$87(2)(b) for identification, but she did not respond. PO Layne began to look through \$87(2)(b) s purse for identification. While doing so, she observed an iPhone in the purse. She asked § 87(2)(b) if it was the phone taken from § 87(2)(b) made a noise of disgust, but did not answer. She was then escorted to the RMP without incident. §87(2)(b) identified the phone removed from § 87(2)(6) s purse as belonging to him. PO Layne and PO Powell transported [887(2)(b)] back to the 115th Precinct stationhouse. They handed over custody of \$87(2)(b) to PO McCartan at the front desk. To the best of PO Lavne's recollection, she and PO Powell then immediately went back out on patrol. PO Layne had no conversation with §87(2)(b) inside the stationhouse. PO Layne did not call §87(2)(b) a "bitch." Neither she, nor PO Powell used any profanity towards 887(2)(b) Neither PO Layne nor PO Powell was assigned to transport § 87(2)(b) to Central Booking.

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Subject Officer: PO SUMMER POWELL

• At the time of the incident, PO Summer Powell was a § 87(2)(b)

• On the date of the incident, PO Powell was assigned to the 115th Precinct sector HI with her partner, PO Layne. She was dressed in uniform and assigned to marked RMP number 3822. She worked from 3:00 p.m. until 11:36 p.m. Since the date of the incident, PO Powell has been transferred to the 108th Precinct.

Memo Book

PO Powell's memo book (encl. D1 – D3) contains the following entries concerning this incident: At 5:15 p.m., PO Powell received a call for a family dispute at ______. One individual was subsequently arrested in front of the location. At 8:13 p.m., PO Powell returned to the stationhouse in regards to an unrelated assignment. At 9:15 p.m., she prepared a complaint report and other paperwork. She ended her tour at 11:35 p.m.

CCRB Statement

PO Powell was interviewed at the CCRB (encl. D4 –D5) on September 13, 2013. Her statement is summarized as follows.

PO Powell had no independent recollection of the incident or any other assignment she performed on the night of the incident. She did not recall responding to the incident location on the night of the incident. She was shown a photograph of \$87(2)(0) but was unable to recognize her from the image. Neither \$87(2)(0) says arrest report, nor the SPRINT pertaining to this incident, nor a description of the incident assisted in refreshing her memory. PO Powell stated throughout her interview that she could only be guided by her memo book entry.

Subject Officer: SGT ANDREW FITTS

• At the time of the incident, Sgt. Andrew Fitts was a \$87(2)(b)

• On the date of the incident, Sgt. Fitts was assigned as the 115th Precinct patrol supervisor, with his operator, PO Roberts. He was dressed in uniform, and assigned to marked RMP number 5446. He worked from 2:50 p.m., until 11:47 p.m.

Memo Book

Sgt. Fitts's memo book (encl. D26 – D27) contains the following entries regarding this incident: At 5:42 p.m., Sgt. Fitts responded to $\frac{1}{2}$ in Queens at the request of officers assigned to sector H. At 6:00 p.m., an arrest was made by the officers from sector H, and one male was transported to the 115th Precinct.

CCRB Statement

Sgt. Fitts was interviewed at the CCRB (encl. D28 – D29) on December 26, 2013. His statement is summarized as follows.

On the date of the incident, Sgt. Fitts responded to in Queens. When he arrived, he observed PO Layne and PO Powell. Set(2)(b) was in custody in the back of their RMP. PO Layne explained to Sgt. Fitts that Set(2)(b) claimed that Set(2)(c) had stolen his cell phone. PO Layne and PO Powell had gone to set(2)(b) a sapartment and asked her if she had the phone. She had stated that she did, and was subsequently arrested. PO Layne explained that she and PO Powell had attempted to use the "Find my iPhone" application to locate the phone. Sgt.

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Fitts was unsure whether or not this had been successful. PO Layne told Sgt. Fitts that [887(2)(5)] did not have identification on her.
stated that her identification was inside her apartment, in a brown clutch purse. She asked the officers to go to the apartment to retrieve it. \$\frac{87(2)(b)}{2}\$ indicated that the apartment belonged to her. \$\frac{87(2)(b)}{2}\$ described his phone to Sgt. Fitts and PO Layne, who then went upstairs to the apartment. They knocked on the door and were greeted by \$\frac{87(2)(b)}{2}\$ who was talking on her cell phone. The officers asked if they were at the apartment of \$\frac{87(2)(b)}{2}\$ and \$\frac{87(2)(b)}{2}\$ stated that they were. The officers explained that they were there to retrieve \$\frac{87(2)(b)}{2}\$ sidentification and asked if they could come inside to do so. \$\frac{87(2)(b)}{2}\$ allowed them into the apartment. At no point did either PO Layne or Sgt. Fitts make physical contact with \$\frac{8}{2}\$ and \$\frac{87(2)(b)}{2}\$ inside the apartment, and at no point did she express any hesitation regarding their entry into the apartment or attempt to prevent them from entering.
Sgt. Fitts stayed in the doorway with \$37(2)(b) but neither he nor PO Layne had any further substantive conversation with her. The front room of the apartment measured approximately twelve feet by twelve feet, and Sgt. Fitts was able to see the purse \$37(2)(b) described on the bed in the room. PO Layne proceeded to the bed and removed \$37(2)(b) s identification and \$37(2)(b) s phone from the purse. The officers then left the apartment. was subsequently transported to the \$115 th Precinct stationhouse with PO Layne and PO Powell. Sgt. Fitts resumed patrol.
 Witness Officer: PO PATRICK MCCARTAN At the time of the incident, PO Patrick McCartan was a \$87(2)(b) On the date of the incident, PO McCartan was assigned to the 115th Precinct sector C with his partner, PO Brian O'Neill. He was dressed in uniform and assigned to marked RMP number 1438. He worked from 3:00 p.m., until 11:35 p.m.
Memo Book PO McCartan's memo book (encl. D11 – D12) contains the following entries regarding this incident: At 6:30 p.m., PO McCartan arrived at the 115 th Precinct to process the arrest of \$87(2)(b) in regards to a family dispute assigned to sector HI on 37 th Avenue. At 8:00 p.m., \$87(2)(b) called her mother from the stationhouse. At 8:33 p.m., \$87(2)(b) s fingerprints were taken. At 8:43 p.m., her picture was taken. PO McCartan subsequently completed the remaining arrest processing paperwork.
Arrest Report and UF61 \$37(2)(b) s arrest report (encl. D13 – D15), prepared by PO McCartan, notes that on March 27, 2013, at the northeast corner of Jamaica Avenue and Woodhaven Boulevard in Queens, \$37(2)(b) s iPhone, worth \$600, by snatching it from his hand. \$37(2)(b) s home address is listed as in Queens. She was charged with grand larceny. The arrest report notes that \$37(2)(b) is not proficient in English. UF61 number \$37(2)(b) (encl. D16 –D17) is consistent with this narrative.
Domestic Incident Report

PO McCartan prepared a domestic incident report (encl. D19 – D20) in regards to this incident. At 2:00 a.m. on March 27, 2013, at the corner of Jamaica Avenue and Woodhaven Boulevard in

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Queens, \$87(2)(b) stated she would give the phone back, but did not do so when \$87(2)(b) went to retrieve it. PO McCartan's statement on the report adds that \$87(2)(b) and \$87(2)(b) were engaged in a verbal argument, when \$87(2)(b) forcibly snatched his phone from \$87(2)(b) shand, and refused to return it. She was charged with grand larceny. The automated DIR (encl. D18; D21 – D23) is consistent with its handwritten counterpart.

CCRB Statement

PO McCartan was interviewed (encl. D24 – D25) at the CCRB on September 24, 2013. His statement is summarized as follows.

On the day of the incident, PO McCartan received instructions to return to the 115th Precinct stationhouse from patrol to meet PO Layne and PO Powell to process an arrest. PO Powell and PO Layne brought \$87(2)(b) and \$87(2)(b) into the stationhouse, and PO McCartan arrived afterwards, meeting them at the desk.

PO McCartan spoke to \$87(2)(b) and then began the paperwork for the arrest. PO McCartan believed that PO Layne and PO Powell resumed patrol after transferring custody of \$87(2)(b) but was unsure. He was unable to recall how long he, PO Powell and PO Layne were in the stationhouse simultaneously.

PO McCartan moved \$87(2)(b) to the cells and allowed her to call her mother within minutes of arriving at the stationhouse. Though \$87(2)(b) was not fully fluent in English, the arrest processing went smoothly, and no other officer assisted PO McCartan. \$87(2)(b) did not protest any part of the process. At no time did \$87(2)(b) complain to PO McCartan about PO Layne, PO Powell, or any other officer.

PO McCartan was unsure whether was transported to Central Booking before or after the end of his tour and did not know who transported her. PO McCartan did not recall PO Layne or PO Powell returning to the stationhouse before the end of his tour, and he did not observe any further conversation between either of them and after taking custody of her. PO McCartan did not hear any officer, including PO Layne or PO Powell call a "bitch," or use any profanity towards her.

NYPD Documents

Roll Call

The tour 3 roll call from the 115th Precinct (encl. E28 – E38) on the date of incident reveals that PO McCartan and PO O'Neill were assigned to sector CDE in RMP number 1438. PO Layne and PO Powell were assigned to sector HI in RMP number 3822. Sgt. Fitts was assigned as the patrol supervisor in RMP number 5446, with his operator, PO Roberts.

Command Log

The command log (encl.E6 – E20) from the 115th Precinct on the night of the incident, notes that arrived at the precinct at 6:05 p.m. on March 27, 2013, and departed for Central Booking Queens at 9:10 p.m. in RMP number 8744. She was charged with petit larceny. is listed as residing at \$87(2)(6) at the precinct on the night of the incident, notes that Booking Queens at 9:10 p.m. on March 27, 2013, and departed for Central Booking Queens at 9:10 p.m. in RMP number 8744. She was charged with petit larceny. One piece of property was removed from her.

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Prisoner Holding Pen Roster

The prisoner holding pen roster from the 115th Precinct (encl. E21 – E23) on the date of the incident reveals that [87(2)(b)] entered the cells at 6:05 p.m. She was last checked at 9:00 p.m. and removed to Central Booking Queens at 9:10 p.m. in RMP number 8744. PO McCartan was the officer assigned to guard [87(2)(b)]

Additional Memo Books

PO O'Neill's memo book (encl. E24 – E27) from the date of incident reveals that at 6:30 p.m., his partner made an arrest at the 115th Precinct.

911 recording / SPRINT CD

911 RECORDING: \$87(2)(b) called 911 at 5:13 p.m. on March 27, 2013, and reported that had taken his phone during an incident the previous evening, and was refusing to return it. He called from inside a grocery store, located at on Queens, down the street from the \$87(2)(b) so location. \$87(2)(b) called from a bystander's cellphone.

SPRINT PRINTOUT:

SPRINT number W10275 (encl. E1) was generated on March 27, 2013.

5:13 p.m. – \$87(2)(b) called 911 to state that his ex-wife had taken his phone and refused to return it.

5:25 p.m. – Unit 115H arrived at 111-12 37th Avenue in Queens.

5:42 p.m. – Unit 115H made an arrest at Unit 115ST1 notes a family offense arrest made.

6:00 p.m. – 115H transports one female to the 115th Precinct stationhouse.

6:01 p.m. – Unit 115ST1 transported \$87(2)(b) to the 115th Precinct stationhouse.

6:31 p.m. – Unit 115H transmitted a final disposition of a family related arrest.

SPRINT RECORDING:

05:28-115H requests a callback for an assignment at 111^{th} Street, then tells the dispatcher to disregard.

22:05 – 115H transmits an arrest in front of and and requests a patrol supervisor. 115ST1 states he is responding.

27:28 – 115H states they are holding one person in regards to their assignment.

40:28 – 115H transmits an arrest verified by a sergeant. The time is 6:00 p.m. 115H then transports one female to the 115th Precinct.

40:48 – 115ST1 states he is transporting the complainant to the 115th Precinct stationhouse.

Arrest Photograph (encl. E3)

was arrested on March 27, 2013, under arrest number \$87(2)(b) was arrested on March 27, 2013, under arrest number \$87(2)(b) and charged with grand larceny. The arrest is noted to have taken place in the 102nd Precinct, the location of the initial dispute which precipitated the incident.

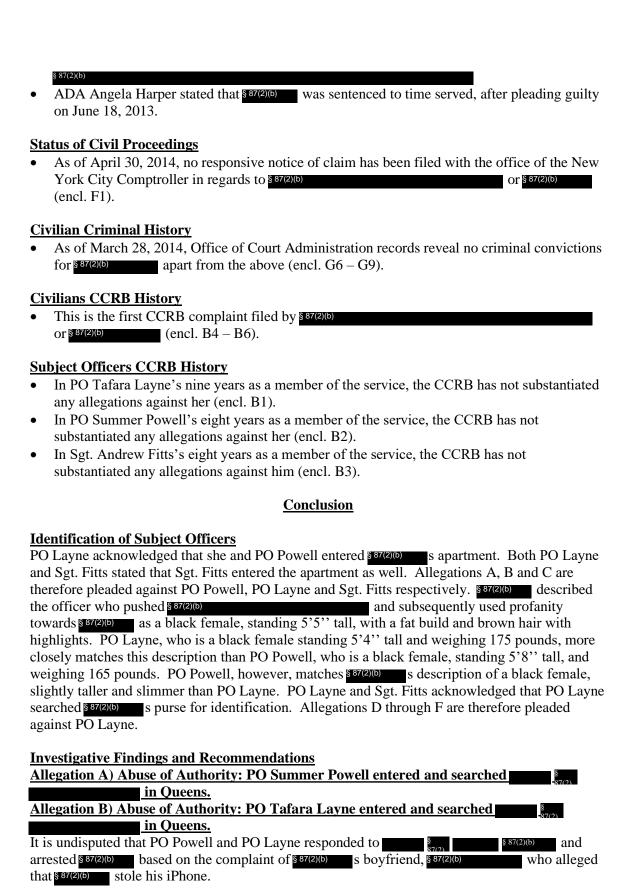
Property Vouchers

No property vouchers were prepared in regards to \$87(2)(b) s arrest (encl. J9).

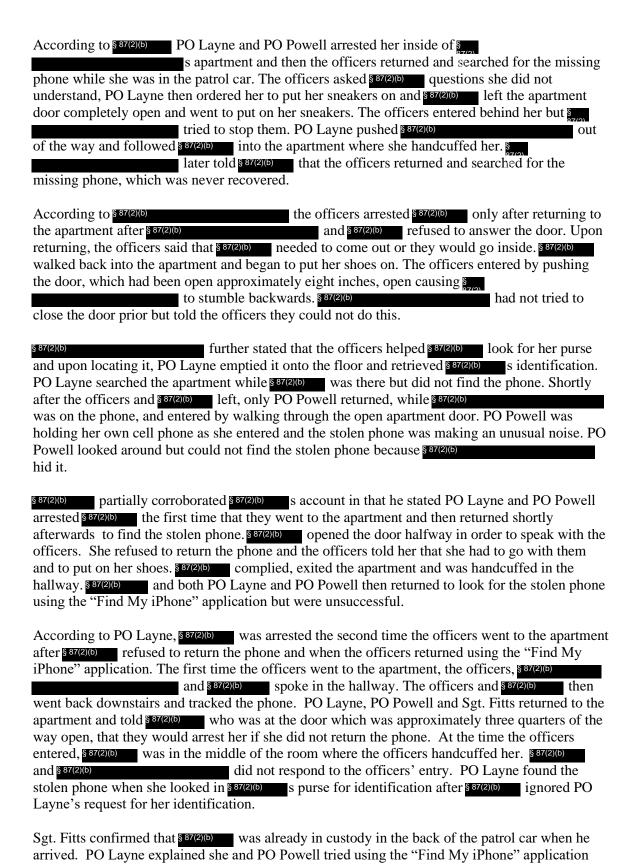
Summons/Arrest for Incident and Disposition

• The Office of Court Administration records indicate that [\$87(2)(b)] pled guilty to one count of disorderly conduct on June 18, 2013. She received a conditional discharge, and a final order of protection was issued (encl. G3). [\$87(2)(b)]

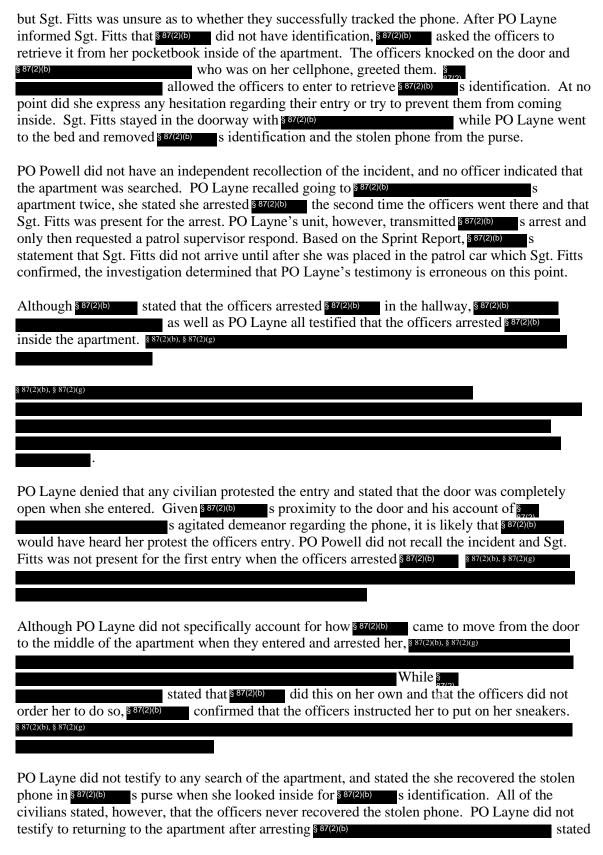
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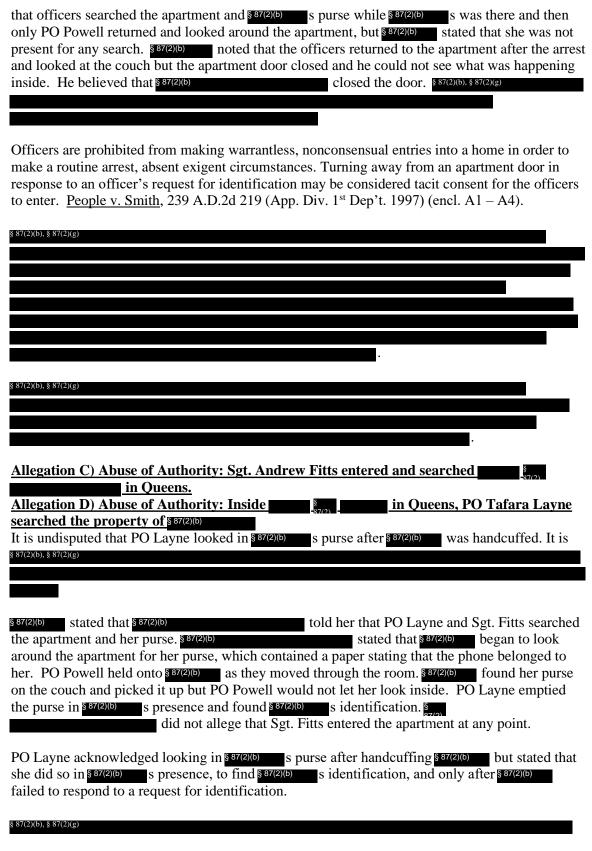
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According to Sgt. Fitts, \$87(2)(0) described her purse, and asked the officers to retrieve her identification from inside the apartment. Sgt. Fitts stated that he entered the apartment with \$87(2)(0) s consent and remained in the doorway, while PO Layne removed \$87(2)(0) s identification from the purse.
§ 87(2)(b), § 87(2)(g)
Officers may search closed containers, including a bag, incident to a lawful arrest only in light of exigencies concerning the safety of bystanders and officers, or the possibility of concealment or destruction of evidence. People v. Gokey, 60 NY2d 309 (1983) (encl. A46 – A49)
§ 87(2)(b), § 87(2)(g)
§ 87(2)(b), § 87(2)(g)
§ 87(2)(b), § 87(2)(g)
Allegation E) Discourtesy: At the 115 th Precinct stationhouse, PO Tafara Layne spoke discourteously to \$87(2)(b) alleged that PO Layne referred to her as a "bitch" after she protested PO Layne transporting her to Central Booking. This occurred in front of the stationhouse desk when PO McCartan was not present. An unknown number of officers were present, but \$87(2)(b) did not believe they overheard PO Layne's comment.
PO Layne denied using profanity towards \$87(2)(b) or that she was ever assigned to transport her to Central Booking. She believed that she immediately resumed patrol upon turning custody of over to PO McCartan at the 115 th Precinct stationhouse desk. PO McCartan stated that he received custody of \$87(2)(b) at the 115 th Precinct stationhouse desk, at which point, he believed PO Layne resumed patrol. He then processed her arrest and denied that he heard any officer use profanity towards her or that she complained about PO Layne to him.
PO Powell's memo book demonstrates that her unit returned to the 115 th Precinct stationhouse for administrative duties from 8:13 p.m., until 9:15 p.m., encompassing the time of \$87(2)(b) s transport to Central Booking at 9:11 p.m.

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§ 87(2)(b), § 87(2)(g)		
§ 87(2)(b), § 87(2)(g)		
Team:4		
Investigator:	Andrew Guinan	<u>6/16/2014</u>
Signature	Print	Date
Supervisor:		
Title/Signature	Print	Date
Reviewer:		
Title/Signature	Print	Date
Reviewer:		
Title/Signature	Print	Date